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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/786,688	02/25/2004	Thomas M. Zinsmeyer	60246-329	3006

26096 7590 08/18/2006
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EXAMINER

TRJEU, THERESA

ART UNIT PAPER NUMBER

3748

DATE MAILED: 08/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/786,688

Applicant(s)

ZINSMEYER ET AL.

Examiner

Theresa Trieu

Art Unit

3748

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-11 and 13-17 is/are rejected.
- 7) ☒ Claim(s) 4, 12 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>Feb. 25, 2004</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1 and 9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 1 and 9 are indefinite and functional because insufficient structure or structural relationships are recited to support the statements that a choke orifice disposed in series *with one of the inlet and outlet orifices*.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3, 5-11, 13, 14 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Libis (Patent Number 4,173,440).

Regarding claims 1-3, 5-11, 13, 14 and 16, as shown in Fig. 2, Libis discloses a compressor assembly comprising: inlet and outlet bearing (23-26) supplied with lubricant through an inlet and outlet orifices being of a common size (not numbered; however; clearly seen in Fig. 2); a plurality of flow passages (40b, 40c, 41, 42) for supplying lubricant to the inlet and outlet orifices; and a choke orifice (V_2 , V_3) for changing a lubricant flow rate of the inlet and outlet orifices; the flow passages comprising a primary portion (40) feeding lubricant to an inlet

portion and an outlet portion (see Fig. 2); a flow rate of lubricant to the inlet orifice being lower than a flow rate of lubricant to the outlet orifice; the compressor assembly comprising a screw compressor (21, 22); a lube block (not numbered; however, clearly seen in Fig. 2) defining a portion of the flow passage, wherein the choke orifice (V_2 , V_3) being disposed within the lube block; a portion of the flow passage comprising tubing (40b, 40c) mounted to the compressor (20); a flow rate of lubricant within the inlet portion (40b) is lower than a flow rate of lubricant within the primary portion (40).

3. Claim 1 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by any one of Fujio (Publication Number 59-231189) or Ernens (Patent Number 6,095,780).

Regarding claim 1, Fujio (as shown in Fig. 2) or Ernens (as shown in Fig. 1) discloses a compressor assembly comprising: inlet and outlet bearing (5, 5a in Fujio; 10, 5 in Ernens) supplied with lubricant through an inlet and outlet orifices (not numbered; however; clearly seen in Fig. 2 in Fujio and Fig. 1 in Ernens); a plurality of flow passages (23 in Fujio; see Fig. 1 in Ernens) for supplying lubricant to the inlet and outlet orifices; and a choke orifice (26, 29 in Fujio; 11, 6 in Ernens) for changing a lubricant flow rate of the inlet and outlet orifices.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Libis in view of legal precedent.

Libis disclose the invention as recited above; however, Libis fails to disclose three inlet/outlet bearing assemblies, and three inlet/outlet orifices. It would have been obvious to one having ordinary skill in the art at the time the invention was made, to utilize three inlet/outlet bearing assemblies and three inlet/outlet orifices, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8 (see MPEP §2144.04).

5. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Libis in view of legal precedent.

Libis disclose the invention as recited above; however, Libis fails to disclose range of the flow rate to the inlet bearing assemblies. It would have been obvious to one having ordinary skill in the art at the time the invention was made, to utilize the lubricant flow rate to the inlet bearing assemblies is no more than 1/5th the lubricant flow rate to the outlet bearing assemblies, since it has been held that where the general conditions of a claim are disclosed in the prior art,

Art Unit: 3748

discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 220F.2d 454,456, 105 USPQ 233, 235 (CCPA 1955) (see MPEP §2144.05).

Allowable Subject Matter

6. Claims 4 and 12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Prior Art

The IDS (PTO-1449) filed on February 25, 2004 has been considered. An initialized copy is attached hereto.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure and consists of three patents: Warren (U.S. Patent Number 2,505,595), Williams et al. (U.S. Patent Number 3,260,444), and Schibbye (U.S. Patent Number 3,975,123), each further discloses a state of the art.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Theresa Trieu whose telephone number is 571-272-4868. The examiner can normally be reached on Monday-Friday 8:30am- 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas E. Denion can be reached on 571-272-4859. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3748

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TT
August 8, 2006



Theresa Trieu
Primary Examiner
Art Unit 3748